

REMARKS

With this response, Applicants have neither amended nor added any claims. For the reasons set forth below, Applicants' seek traverse of the restriction requirement because all of the claims should be examined together in the present application. Provisional designations are set forth below on the next page and Applicants' more detailed arguments in support of traverse follow thereafter. Presently, Applicants' provisionally designate the claims of Group I and Species C.

RESTRICTION REQUIREMENT

The Examiner is seeking restriction of the presently pending claims in the following manner:

Group I – Claims 1-48, drawn to a vehicle seat suspension of class 248, subclass 421; and

Group II – Claims 49-53, drawn to a preassembled suspension cartridge of class 248, subclass 638.

ELECTION OF SPECIES REQUIREMENT

The Examiner has designated the following species grouping the drawing figures of the present application in the following manner:

Species A – Figs. 1-3;

Species B – Figs. 4-6; and

Species C – Figs. 1 and 5-12.

PROVISIONAL DESIGNATIONS

RESTRICTION REQUIREMENT

Applicants hereby provisionally select the claims of Group I, with traverse.

ELECTION OF SPECIES REQUIREMENT

Applicants hereby provisionally select drawing figures 1 and 5-12 of Species C.

TRAVERSE OF RESTRICTION REQUIREMENT

For the reasons set forth herein, applicants believe that traverse is proper because the claims of Groups I and II should be examined together. More specifically, the claims of Group I and II are classified within the same class and searching of all of the claims of Group II can be done without undue burden because limitations found in these claims correspond to limitations recited in the claims of Group I and vice versa. Thus, it is believed that traverse is proper and examination of all of the claims of Groups I and II should proceed.

It is important to note that all of the claims of Groups I and II are classified in class 248 and thus can be searched and examined without serious burden. A review of the Manual of Patent Examining Procedure makes clear that claims to independent or distinct inventions must be examined where search and examination can be carried out without serious burden. More specifically, MPEP § 803 states:

Under the statute an application may properly be required to be restricted to one of two or more claimed inventions only if they are able to support separate patents and they are either independent (MPEP § 806.04 -§ 806.04(i)) or distinct (MPEP § 806.05 -§ 806.05(i)).

If the search and examination of an entire application can be made *without serious burden*, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

(emphasis added).

MPEP § 802.1 defines “distinct” as:

The term “distinct” means that two or more subjects as disclosed are related, for example, as combination and part (subcombination) thereof, process and apparatus for its practice, process and product made, etc., but are capable of separate manufacture, use, or sale as claimed, AND ARE PATENTABLE (novel and unobvious) OVER EACH OTHER (though they may each be unpatentable because of the prior art). It will be noted that in this definition the term related is used as an alternative for dependent in referring to subjects other than independent subjects.

In the present case, Applicants submit that the restriction requirement is improper because the Examiner has made an inadequate showing of distinctiveness. In addition, the Examiner has made no showing that it would be an undue burden to examine these claims. Nor has the Examiner put forth any evidence of distinctiveness that comports with MPEP § 802.1.

In addition, Applicants respectfully request that the restriction requirement be withdrawn because no matter which group of claims is examined, the searching and examination required will be coextensive and overlapping. As a result, for this additional reason, searching and examination of all of the claims of Groups I and II can be carried out without undue burden.

For example, the claim limitations recited in each one of the claims of Group II is also found in claims of Group I, such that searching the claims of Group II can be carried out simultaneously and without undue burden when searching the claims of Group I (*and vice versa*). Indeed, each one of the claims of Group II, namely, claims 49-53 are all directed to a “preassembled suspension cartridge,” which is also recited in claims 5-7 and 48 of Group I.

With specific reference to the other limitations recited in *claim 49* of Group II, claims 45 and 47 of Group I recite “a pair of generally parallel biasing elements...,” claims 8-13 of Group I recites a “housing,” and claim 25 of Group I recites a “pivotally carried” “suspension arm.” With specific reference to other limitations recited in *claim 50* of Group II, claims 45 and 47 of Group I recite “a pair of generally parallel biasing elements...,” claims 8-13 of Group I recite a “housing,” claim 25 of Group I recites a “pivotally carried” “suspension arm,” and claims 3-7, 37, 39, 40, and 42-44 of Group I recite a “height adjust assembly” and/or related claim limitations. With specific reference to other limitations recited in *claim 51* of Group II, claims 45 and 47 of Group I recite “a pair of generally parallel biasing elements...,” claims 8-13 of

Group I recite a "housing," claim 25 of Group I recites a "pivotally carried" "suspension arm," claims 3-7, 37, 39, 40, and 42-44 of Group I recite a "height adjust assembly" and/or related claim limitations, and claims 5-7, 37, and 42-44 of Group I all recite "height adjust assembly" and/or related claim limitations. With specific reference to other limitations recited in *claims 52 and 53* of Group II, claims 45 and 47 of Group I recite "a pair of generally parallel biasing elements...", claims 8-13 of Group I recite a "housing," claim 25 of Group I recites a "pivotally carried" "suspension arm," and claims 9, 38, 39, and 45-47 each recite a "damper."

For at least the foregoing reasons, Applicants submit that all claims should be examined together in the present application and respectfully request withdrawal of the present restriction requirement.

CLAIMS GENERIC AND READABLE ON PROVISIONALLY ELECTED SPECIES

Applicants gratefully acknowledge Examiner's indication that claim 1 is generic. In addition, Applicants' respectfully submit that claims 2-8, 10, 21, 25, 26, 30, 37, 40, 42-45, 47 and 48 are also generic. If the claims of Group II are concurrently examined with the claims of Group I in the present application, claims 49-53 are also submitted to be generic. Of the remaining claims, claims 11-20, 22, 24, 27-29, 32-36, 39, and 46 are submitted to read on provisionally elected Species C.

CONCLUSION AND PETITION FOR ONE-MONTH EXTENSION OF TIME

No other fees are believed to be due with the submission of this communication because May 5, 2005 occurred on a Sunday, enabling this response to be filed on June 6, 2005 with requiring payment of any extension fee. Nevertheless, the Director is authorized to direct any additional fees associated with this or any other communication, or credit any overpayments to Deposit Account No. 50-1170.

Should the Examiner have any questions or comments, the attending to of which would expedite the prosecution of this application, the Examiner is invited to contact the undersigned at the telephone number appearing below.

Respectfully submitted,



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